

THE CORPORATION OF THE TOWN OF PELHAM

By-Law No. XXX- 2020

A BY-LAW TO ADOPT LICENCING FOR SHORT TERM ACCOMMODATION

BEING A BY-LAW TO LICENCE, REGULATE AND GOVERN THE OPERATION OF SHORT TERM ACCOMMODATION IN THE TOWN OF PELHAM

WHEREAS Section 8 (1) of the *Municipal Act, 2001*. S.O. 2001, c. 25 (hereinafter "*Municipal Act*") provides the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to Section 9 of the *Municipal Act*, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to Section 11 (2)(6) of the *Municipal Act*, a lower-tier municipality has the authority to implement Business licencing in the interest of health and safety, well-being of persons, consumer protection and nuisance control;

AND WHEREAS Sections 11(3)(7) and 11 (3)(8) of the *Municipal Act*, authorize a Municipality to pass by-laws respecting health, safety and well-being of persons, parking on Property, structures including fences and signs;

AND WHEREAS Sections 390 to 400 of the *Municipal Act* enable a municipality to pass By-laws for imposing Fees or charges for permits and services provided or done by them;

AND WHEREAS Section 425 of the *Municipal Act*, authorizes a Municipality to create offences;

AND WHEREAS pursuant to Section 434.1 of the *Municipal Act*, a municipality has the authority to impose a system of administrative penalties and Fees as an additional means of encouraging compliance with this by-law;

AND WHEREAS Section 436 of the *Municipal Act* permits a municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law direction, order or Licence;

AND WHEREAS Section 444 of the *Municipal Act* provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the Owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

AND WHEREAS the Council of the Corporation of the Town of Pelham has engaged in public consultation, including public meetings, a round table meeting with community groups and in direct consultation with Owners/Operators of Short Term Accommodation facilities including Bed and Breakfast

Establishments and vacation rentals;

AND WHEREAS the Council of the Corporation of the Town of Pelham considers it advisable that such Licencing, regulation and governing takes place with regard to Short Term Accommodation Rentals as defined in this By-law;

AND WHEREAS, Council has enacted Official Plan Amendment No. XX and Zoning By-law Amendment XXXX (2020) under the provisions of the *Planning Act*, R.S.O. 1990, c. P13, as amended, with respect to Short Term Accommodation within the municipality and having done so desires to provide for a system of Licencing to implement said policies and provisions;

AND WHEREAS pursuant to Section 151 of the *Municipal Act*, Council is exercising its authority to provide for a system of Licences with respect to Short Term Accommodation Businesses; and

NOW THEREFORE the Council of The Corporation of the Town of Pelham enacts as follows:

SECTION 1: DEFINITIONS AND INTERPRETATION

"ADMINISTRATIVE PENALTY PROCESS BY-LAW" By-law #4221(2020), as amended from time to time, means a civil mechanism for promoting compliance with municipal by-laws. Administrative penalties can be imposed through administrative processes, rather than fines imposed in quasi-criminal court processes.

"ANCILLARY" means a use, Building or structure that is located on the same lot that may or may not be detached from the main Building and is essential to a principal or main use, Building or structure therewith.

"BED & BREAKFAST ESTABLISHMENT" means a principal residence Dwelling in which the Owner and operator provides Guest Rooms for the temporary accommodation of twenty-eight (28) consecutive days or less to the traveling public and may offer meals to the registered guests, but does not include a hotel, motel, inn, tavern or any other use governed by the *Innkeepers Act*, R.S.O. 1990, c.I.7, as amended.

"BUILDING" means, a structure occupying an area greater than ten (10) square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems related thereto.

"BUSINESS, Short Term Accommodation" shall mean the business of making or attempting to earn revenue by engaging in or by advertising the availability of a Short Term Accommodation for twenty-eight (28) consecutive days or less for remuneration or other good and valuable consideration.

"COOKING APPLIANCES" means equipment for food preparation, such as a hot plate, microwave, toaster or toaster oven, oven or stove top, but does not include a coffeemaker, kettle or bottle warmer.

"COUNCIL" means the Municipal Council of the Corporation of the Town of Pelham.

"DWELLING UNIT" means one (1) or more habitable rooms, in a Building, occupied or capable of being occupied as a single housekeeping unit only, in which sleeping, sanitary conveniences, and kitchen facilities are provided, in which a heating system is provided, and which has a private entrance from outside the Building or from a common hallway or stairway inside. For the purposes of this By-law, a Dwelling Unit does not include a tent, trailer, mobile home, or a room or suite of rooms in a boarding or rooming house, a hotel, motel, or motor home.

"DWELLING, PRINCIPAL RESIDENCE" means a Dwelling Unit owned or rented by a person, alone or jointly with another person, which is their principal place of residency.

"FEE" means as set out in the Town of Pelham Annual Rates and Fees Schedule, which is not prorated and non-refundable.

"FIRE PREVENTION OFFICER" means any member of a fire prevention bureau established by a municipality and every person designated by the fire Marshall as an assistant to the fire Marshall.

"GUEST ROOM" means a room or suite of rooms used or maintained for the accommodation of individuals to whom hospitality is extended for compensation.

"LICENCE" means the certificate or other similar document issued pursuant to this by-law as proof of Licencing under this by-law.

"LICENCED" means to have in one's possession a valid and current Licence issued under this by-law and unlicenced has the contrary meaning;

"LICCENCEE" means a person issued a Licence under this by-law to operate a Short Term Accommodation.

"LICENCE ISSUER" means any person or persons provided the authority by the Town to issue a Licence under this by-law.

"MUNICIPAL LAW ENFORCEMENT OFFICER" means a Municipal Law Enforcement Officer of the Corporation of the Town of Pelham who is duly appointed by the Council of the Corporation for the purpose of enforcing the provisions of the Corporation's By-laws or a Niagara Regional Police (NRP) Officer.

"OWNER" means any person(s) or corporation who is a registered Owner, has a legal or equitable interest, has a legal right to obtain possession, and who has control or management of any Property, land, Building or structure. In the case of a Corporation, any authorized signing officer is considered the Owner for the purposes of this By-law.

"PARKING AREA" means an area or structure, including a private garage, carport, provided for the parking of vehicles, and includes any related parking aisles, parking spaces and structures, but does not include any part of a street or lane.

"PROPERTY" means any lot, block or other area in which land is held or into which it is subdivided, including the Buildings and structures thereon.

"RENTER" means the person, who has obtained entitlement to exclusive use of a portion or the entirety of a Short Term Accommodation rental from the Licencee.

"RENTER'S CODE OF CONDUCT" as set forth in Schedule A means a document that has been prepared by the Town that prescribes the roles and responsibilities of the Renter, including behavioral expectations as they relate to non-disturbance; which provides a warning related to the making of a disturbance; and, which identifies applicable Town by-laws that the Renter must comply with including the adherence to the provisions of this by-law.

"RESPONSIBLE PERSON" means the Owner or an agent assigned by the Owner or Licencee of the Short Term Accommodation to ensure the Short Term Accommodation is operated in accordance with the provisions of this By-law, the Licence and applicable laws.

"SECOND DWELLING UNIT" means a Dwelling Unit within a single-detached, semidetached, or townhouse Dwelling; or within a detached structure accessory to a primary Dwelling.

"SITE DRAWING" means a plan that identifies those measures the Owner will implement so as to ensure

compliance with Section 5 of this by-law.

“SHORT TERM ACCOMMODATION (STA)” means a Dwelling or Dwelling Unit, that in whole or part, is rented or available for rent with the intention of financial compensation for an occupancy period of less than twenty-eight (28) consecutive days and includes a Bed and Breakfast Establishment, but does not include a motel, hotel, inn, tavern or any other use governed by the *Innkeepers Act*, R.S.O. 1990, c.I.7, as amended.

"TOWN" means the Corporation of the Town of Pelham.

“TOWN CLERK” means the person or his/her designate as appointed by the Council of the Town.

“ZONING BY-LAW” means the Town of Pelham’s Comprehensive Zoning By-Law 1136 (1987), as amended from time to time and any successors thereto.

SECTION 2: GENERAL PROVISIONS APPLICABLE TO ALL SHORT-TERM ACCOMODATION(S)

1. No person shall use or operate any Short Term Accommodation unless he or she holds a current Licence issued pursuant to this By-law.
2. No person shall advertise a Short Term Accommodation without a Licence.
3. Where a lot contains a Second Dwelling Unit as defined by the Comprehensive Zoning By-law, the following shall apply:
 - a) A Principal Residence of the Property Owner shall be located on the same lot as the Short Term Accommodation; and
 - b) A maximum of three (3) Short Term Accommodation Guest Rooms are permitted on the same lot.
4. Short Term Accommodation(s) shall comply with all applicable Municipal By-laws and provincial legislation.
5. The following shall be made available to guests:
 - a) a copy of the current Licence displayed interior to the Short Term Accommodation and available for inspection by Town staff;
 - b) a copy of the current Town Noise Control By-law 3130-2010, as amended;
 - c) a copy of the current Town's Public Nuisances By-law 2020-XXXX;
 - d) a copy of the current parking provisions for Short Term Accommodation as described in the Town's Zoning By-law;
 - e) a copy of the current Town Administrative Penalty Process By-law 4221(2020);
 - f) a copy of the current Town Fireworks By-law 2951-2008; and
 - g) a copy of the approved floor plans identifying the rooms and also showing exits and fire escape routes.
6. The Licencee shall be responsible for maintaining the amenity and Parking Areas.
7. All Short Term Accommodation establishments must provide a 2A-10BC or better fire extinguisher in any cooking area and on every level of the establishment.

8. All Short Term Accommodation establishments must post fire emergency procedures.
9. All Short Term Accommodation establishments shall prepare and have approved by the Fire Chief, a fire safety plan as per section 2.8.2 of the Ontario Fire Code.
10. No Licencee shall rent any Guest Room in a Short Term Accommodation other than a Guest Room that was identified and approved as such on the floor plans submitted with the Application for the Short Term Accommodation Licence.
11. All Short Term Accommodation shall provide proof of insurance and carry a minimum of \$2 million dollars' liability insurance, unless a pool or hot tub is present on the premise, then a minimum of \$5 million dollar's liability insurance shall be carried. The insurance shall identify that a STA is being operated on the Property. The Insurance coverage required herein shall be endorsed to the effect that the Town of Pelham shall be given at least ten (10) days' notice in writing of any cancellations or material variation to the policy.
12. A person is not eligible to obtain or renew a Licence if the person is indebted to the Town in respect of fines, penalties, judgments or any other amounts owing, including awarding of legal costs and disbursements and outstanding Property taxes and late payment charges against all properties owned by the Owner.

SECTION 3: SHORT-TERM ACCOMODATION - BED & BREAKFAST ESTABLISHMENTS

1. Where a Bed & Breakfast use is to be issued a Licence in accordance with this By-law, in addition to the General and Specific Provisions, the following provisions and considerations shall apply prior to issuing the Licence:
 - a) A Bed & Breakfast Establishment shall only be permitted in a principal residence of an Owner and/or operator.
 - b) A Bed & Breakfast Establishment shall not be established or operated in an accessory Building.
 - c) One (1) parking space shall be provided per Guest Room in addition to the required spaces for the principal Dwelling. Such parking spaces shall be on the same lot as the use and shall comply with the requirements outlined in the Zoning By-law.
 - d) A Bed & Breakfast Establishment shall not detract from the general character of the neighbourhood nor be a nuisance in terms of noise, traffic, parking and visual character.
 - e) A Bed & Breakfast Establishment, while being operated as a Bed and Breakfast Establishment, must be occupied and operated by the principal resident while guests occupy or have the right to occupy Guest Rooms.
 - f) No cooking or Cooking Appliances shall be permitted in Licenced Guest Rooms, except for a coffee maker, kettle or bottle warmer.
 - g) A Bed and Breakfast Establishment shall post fire emergency procedures in each room and have an approved fire safety plan for the Dwelling.
 - h) A Bed & Breakfast Establishment post an emergency evacuation and Fire Safety Plan in each room.
 - i) Each Bed and Breakfast Establishment Licenced pursuant to the By-law must provide

proof to the Town at least every two (2) years that it complies with the Fire Code and the Town's Property Standards By-law and are required to pay the applicable inspection Fee(s), subject to the **Fee and Charges By-law XXX.**

SECTION 4: SHORT-TERM ACCOMMODATION – SPECIFIC PROVISIONS

1. The following provisions apply to all Short Term Accommodation:

- a) A Short Term Accommodation shall only be permitted in areas where it is a permitted use as set out in the Town's Zoning By-law.
- b) Permitted Renter Occupancy shall be the sum of all Guest Rooms in the Short Term Accommodation and have a maximum occupancy of ten (10) persons per Dwelling, which includes the permanent occupants at any one time.
- c) Occupancy of a Bed and Breakfast Establishment is dictated by Section 3 of this By-law.
- d) All Short Term Accommodation shall comply with the provisions of the Ontario Building Code.
- e) All Short Term Accommodation must post fire emergency procedures and have an approved fire safety plan for each Dwelling.
- f) A Licencee shall provide to the Town the name and contact information of the Responsible Person who can be readily contacted and respond to an emergency or contravention of any Town By-law, including attendance on site of the Short Term Accommodation within one (1) hour of being notified of the occurrence.
- g) The Licence does not permit a Short Term Accommodation to be used for the hosting of events such as receptions or any other similar group activity in contravention of the Town's Comprehensive Zoning By-law, as amended.
- h) Each Short Term Accommodation shall provide proof that it complies with the Fire Code and the Town's Property Standards By-law every two (2) years for a Short Term Accommodation as a principal residence or two (2) years for Short Term Accommodation as a whole home and are required to pay the applicable inspection Fee(s), subject to the Fee and Charges By-law XXX.**
- i) The Licencee shall keep a record of the Renter with such record containing the date of entry, the length of stay, home address of the Renter and confirmation of receipt of the Renter's Code with such record readily available for inspection at all time by a Municipal Law Enforcement Officer for a period of one (1) year.
- j) Applications for Licence and issued Licences, along with the legal description, civic address and associated Owner, Responsible Person contact information will be posted on the Town's website.

SECTION 5: LICENCE APPLICATION AND ISSUANCE

1. An Application for a Licence for a Short Term Accommodation shall be submitted to the Town and shall include a clear and legible floor plan and Site Drawing or sketch showing:
 - a) civic address and legal description of the Property;
 - b) a photograph of the front of the Building;

- c) a floor plan with accurate dimensions showing an emergency evacuation plan inclusive of each bedroom, sleeping area, smoke alarm, CO alarm, fire extinguisher and existing egress door or window, as well as an approved fire safety plan;
 - d) the location of the Building on the Property with setbacks indicated from all Property lines;
 - e) the location and dimension of the Parking Area and the required parking spaces;
 - f) the location of the driveway access to the required parking spaces;
 - g) the location and dimensions of the outdoor amenity area(s); and,
 - h) fencing, landscaping or other buffering if required.
2. The Application shall identify:
- a) the number of Guest Rooms;
 - b) the maximum number of guests to be accommodated;
 - c) the registered Owner and contact information;
 - d) the Owner and if applicable, Agent (alternative) person and related contact information; and
 - e) the Licence number of any previous Short Term Accommodation Licence.
3. The Application information shall include proof satisfactory to the Town that:
- a) a copy of general liability insurance in an amount of no less than \$2 million, unless a pool or hot tub is located on the premise, then general liability insurance in an amount of no less than \$5 million is required;
 - i. Owner is responsible to maintain a valid insurance policy and will be required to provide proof of insurance every year that the policy is renewed, or if anything has changed.
 - b) an indemnity in favour of the Town from and against claims, demands, losses, costs, damages, actions, suits, or proceedings that arise out of or are attributable to, the STA's Owner, which shall be in a form satisfactory to the Town;
 - c) the subject Property is adequately insured against damage from fire and confirmation that no restrictions are in place on the Applicant's ability to use the Property for short-term accommodations during the period of insurance coverage nor on the amount of times the Property may be used for short-term accommodations during such period; and,
 - d) the Applicant's insurance is cancellable on no less than thirty (30) days prior notice.
4. There shall be a maximum of one (1) Short Term Accommodation Licence issued per municipal address.
5. The Applicant shall submit a Responsible Person Consent Form (Schedule B) to ensure that there is a Responsible Person who can be readily contacted and respond to an emergency or contravention of any Town By-law, including attendance on site of the Short Term Accommodation within one (1) hour of being notified of the occurrence.

6. The Applicant shall pay the required licencing Fee as per the Town's Fees and Charges By- law.
7. The Applicant shall submit a copy of any advertisement of the Short Term Accommodation demonstrating its promotion to be in compliance with the provisions of this By-law.
8. The Licencee shall keep a record of the Renter with such record containing the date of entry, the length of stay, home address of the Renter and confirmation of receipt of the Renter's Code of Conduct with such record readily available for inspection at all time by a Municipal Law Enforcement Officer for a period of one (1) year.
9. A Licence for a Short Term Accommodation may not be renewed or extended unless the Licencee has submitted a completed Application form and the applicable Fee.
10. A Short Term Accommodation Licence that has been issued pursuant to this By-law shall expire upon the earliest of the following events:
 - a) The date that is two years (2) after the date of the issuance of the Licence; or
 - b) Upon the sale or transfer of the Property to a person other than a Licencee; and
 - c) A Short Term Accommodation Licence cannot be assigned or transferred from the Licencee to another party.
11. Any person applying for a Licence is responsible to coordinate with the Town and to arrange for an inspection of the Property if required as a condition precedent prior to receiving a Licence to ensure compliance with the following:
 - a) The Provisions of this By-law;
 - b) The Ontario Fire Code;
 - c) The Ontario Building Code;
 - d) Niagara Region Public Health;
 - e) The Property Standards By-law; and
 - f) The Zoning By-law.
12. The Licencee shall be responsible for informing the Town in writing of any changes to the approved information contained within the Licence application or any deviation to the approved plans within seven (7) days of such change or deviation. Nothing herein allows a Licencee to rent rooms other than those identified and approved on the floor plans submitted with the Application for a Licence unless the Town has approved same.
13. Upon receipt of a completed Application and the payment of the licencing Fee, the Licence issuer shall, in the case of both new and renewal applications review the application and if in compliance with this By-law, will issue the Licence. The Licence issuer may request comments from other departments or agencies and attach conditions to the Licence.
14. Upon determination by the Licence issuer that information requirements and all regulatory and by-law requirements of the Town are met, a Licence shall be issued and expire on December 31, of each calendar year and prorate costs, unless the Licence is renewed or revoked in accordance with the provisions of this by-law.
15. Licences are not transferable and shall remain the Property of the Town.

SECTION 6: TERM OF LICENCE

A Licence issued pursuant to the provisions of this by-law shall expire two (2) years from the date it was issued, unless it is revoked in accordance with the provisions of this by-law.

SECTION 7: LICENCE DENIAL, SUSPENSION OR REVOCATION

1. The Licence issuer may refuse to issue or revoke a Licence if one or more of the following circumstances are met:
 - a) if the information submitted on the application is incomplete, incorrect, false or misleading; or
 - b) where all the required taxes, Fees, administrative monetary penalties or municipal charges have not been paid; or
 - c) where a Licence has been previously revoked, suspended, made subject to special condition(s) or has presented a history of contravention with this or other Town by-laws; or
 - d) Where the Applicant is in breach of any provisions of the By-law or the Short Term Accommodation does not comply with any provision of this By-law any breach of the provisions of any other Town By-law or regulations, or
 - e) refusal to comply with any previous notice of violation within seventy-two (72) hours.
2. Notwithstanding the above, if satisfied that the continuation of the Licence poses an immediate threat to life or the health or safety of any person, the Licence issuer may, for the time and such conditions as are considered appropriate and without a hearing, suspend a Licence for not more than fourteen (14) days, and, prior to suspending the Licence, shall provide the Licencee with the reasons for the suspension, either orally or in writing, with an opportunity to respond to them.
3. Where the Municipal Law Enforcement Officer has issued three (3) or more monetary penalties within a six (6) month period, the Licence may be revoked by the Licence Issuer.

SECTION 8: INSPECTION

1. A pre-inspection of the premises prior to the provision of comments and prior to the consideration of the application is required. The applicant shall cooperate and facilitate in arranging the inspection of the premises in a timely manner and shall be in attendance during the inspection. In the instance of the requirement of the payment of Fees for such an inspection, the applicant shall pay the Fees as required prior to the inspection.
2. An officer may at any reasonable time inspect any premises or place where a Licence has been issued under this By-law to determine compliance to this By-law.
3. To obstruct or permit the obstruction of an inspection is deemed an offence.
4. Licence shall be issued once all necessary inspections have been undertaken and signed-off on.

SECTION 9: LICENCE FEES NON-REFUNDABLE AND PENALTIES

1. The Licence application Fee is non-refundable regardless of the ultimate disposition of the

Licence application.

SECTION 10: ADMINISTRATION AND ENFORCEMENT

1. The Municipal Law Enforcement Officer shall be responsible for the enforcement of this By-law.
2. Every person who contravenes any provision of this By-law is guilty of an AMP and all contraventions of this By-law are designated as continuing offences pursuant to Section 429 of the *Municipal Act*.
3. When in the opinion of the Municipal Law Enforcement Officer, a violation of this By-law has occurred or exists, the Municipal Law Enforcement Officer may issue a written compliance notice to the alleged violator. The notice shall specify those sections of the By-law which are in violation. Failure to comply with the notice enables the Town, at its sole discretion, to correct the alleged violation, failing which the Town may correct the alleged violation at the expense of the Owner / Licencee.
4. Service of any notice under this section shall be carried out by personal service or registered mail addressed to the Licencee at the address shown as the Licencee's address on the Application.
5. Every person who contravenes any of the provisions of this By-law, including those contained in any of the Schedules and every Owner is guilty of an offence and may be subject to an Administrative Penalty or as an offence and conviction liable to a fine in keeping with the provisions of the *Provincial Offences Act*.
6. Pursuant to Section 447 of the *Municipal Act*, where an Owner is convicted of knowingly carrying on or engaging in a Short Term Accommodation Business in respect of any Property or any part of any Property without a Licence required by this By-law, or a person is convicted of any other contravention of this By-law and the court determines that the Owner or occupant of the Property or part of the Property in respect of which the conviction was made known or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the Property or part of the Property be closed to any use for a period not exceeding two (2) years.

SECTION 11: ADMINISTRATIVE PENALTY

1. A Municipal Law Enforcement Officer who finds that a person has contravened any provision of this By-law, may issue a notice addressed to that person, advising that person, that he or she has failed to comply with a provision to this by-law and that he or she is subject to paying an administrative penalty as a consequence of that non-compliance.
2. Any person who is issued a penalty notice pursuant to Section 11(1) above shall be liable to pay the Town the administrative penalty in the amount stipulated in the Town's Administrative Penalty Process By-law 4221 (2020) as approved by Council.
3. Each person who contravenes any provision of this by-law shall upon issuance of a penalty notice in accordance with the Town Administrative Penalty Process By-law 4221 (2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which each contravention or violation occurs or continues.

SECTION 12: APPEAL

1. An applicant, whose application has been refused, or a Licencee, whose Licence has been

revoked, and is not satisfied with the terms or conditions as to why this action was taken, may apply to appeal this decision with Town Council.

2. Every person who initiates an appeal of a decision shall submit a notice of appeal;
 - a) within fourteen (14) days of a refusal or revocation; and
 - b) with the non-refundable required Appeal Fee as detailed in the Town's Fees and Charges by-law; and
 - c) by registered mail to the Town or personally filing with the Town Clerk or Deputy Town Clerk.

SECTION 13: APPEAL HEARING

1. Council shall hear and render a decision on an appeal under Section 12 of this By-law in an expeditious manner.
2. In considering an appeal, Council has the same powers as the municipal official who may issue or revoke a Licence and may:
 - a) rescind the refusal or revocation action, or
 - b) confirm the refusal or revocation action, or
 - c) modify the action and create requirements of compliance.
3. The decision of Council on the appeal is final.

SECTION 14: CONFLICT AND SEVERABILITY

1. If any portion of this By-law of the Town is found to be in conflict with any other provision of any zoning, Building, fire, safety or other By-law of the Town or regulations, the provision which establishes the higher standard shall prevail.
2. If any provision or requirement of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, Council intends the remainder of this By-law or the application of such provision or requirement to all persons other than those to whom it is held to be invalid or unenforceable to not be affected hereby and each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by by-law.

SECTION 15: EFFECTIVE DATE AND TRANSITION PROVISIONS

1. This By-law shall come into full force and effect upon enactment of the By-law at which time all By-laws that are consistent with the provisions of this By-law and the same are hereby repealed insofar as it is necessary to give effect to the provisions of this By-law.
2. Zoning By-law Conformity:
 - a) A Property that is subject to a use that is not in conformity to the permitted uses of the Comprehensive Zoning By-law, as amended, shall not be issued a Licence.
 - b) In the event that the Applicant for a Short Term Accommodation Licence pursuant to this By-law claims that the use as a Short Term Accommodation is a legal non-conforming use pursuant to Section 34(9) of the *Planning Act* or the Property that is subject to the application was used as a Short Term Accommodation at the time the By-law was passed by Council, the Applicant shall provide evidence that is satisfactory to the Licence issuer together with a sworn Affidavit or Statutory Declaration which shall

include but not be limited to the following information:

- i. That the Property was being used as a Short Term Accommodation as of May 2020;
 - ii. The nature and extent of the Short Term Accommodation use in May 2020 so as to determine if the use has changed or intensified since this date; and
 - iii. That the Property has not at any time since May 2020 stopped being used as a Short Term Accommodation.
3. Short Term Accommodation legally existing on the date of passage of this by-law shall have a period ending October 31, 2020 in which to obtain a Licence.

SECTION 16: SHORT TITLE

1. This By-law shall be known as the “Short Term Accommodation (STA) Licencing By-law”.

Read a first, second and third time and finally passed and enacted this XXX day of _____ 2020.

Nancy Bozzato, Clerk

Marvin Junkin, Mayor

Schedule “A” – Renter Code of Conduct

DRAFT

SCHEDULE A

RENTER CODE OF CONDUCT

1. PREMISE OF THIS CODE

The premise of this Code is that the short term accommodation premises are located in the vicinity of other properties and that the residents/occupants of these properties have the right to enjoy their properties without being imposed upon by nuisance from others.

2. OBJECTIVES OF THIS CODE

The objective of this Code is to establish acceptable standards of behavior for renters and their guests, and to minimize any adverse social or environmental impacts on their neighbors and neighborhood.

3. GUIDING PRINCIPLES

The Guiding Principles for short term accommodation renters are:

- The premise that you are occupying is a home;
- Treat the premise as your own;
- Respect your neighbors; and,
- Leave it as you find it.

4. MAXIMUM NUMBER OF RENTERS AND GUESTS

- Permitted Renter occupancy shall be the sum of all guest rooms in the Short Term Accommodation and have a maximum occupancy of ten (10) persons per dwelling, which includes the permanent occupants at any one time.
- The number of non-occupying guests permitted at a short term accommodation premises must not be such that it may conflict with the neighbourhood or amenity.

5. NOISE AND RESIDENTIAL AMENITY

No person shall make noise so as to cause a disturbance or conduct themselves in an antisocial behaviour. Examples of noise that is deemed to be a disturbance include:

- a) Amplified sound such as noise created by, any radio, television, electronic device, record player, tape player, amplifier, loud speaker, musical instrument or equipment, device or instrument;
- b) Outdoor or backyard gatherings involving excessive noise;
- c) Late or early hour disturbances; and,

- d) Yelling, shouting, chanting and loud conversations.

Please be advised that the Town of Pelham's Noise Control By-law 3130-2010, as amended, is in effect at all times and renters and guests must comply.

6. FUNCTIONS AND PARTIES

No person shall sponsor, conduct, continue, host, create, attend, allow, cause or permit a Nuisance Party. Please be advised that the Town of Pelham's Nuisance By-law XXXX-2020, is in effect at all times.

- a) Short term accommodation renters are not to host commercial functions;
- b) So called "party houses" conflict with residential amenity and are not permitted as per the Nuisance By-law XXXX-2020;
- c) Any gathering, celebration or entertainment at a short term rental accommodation premise Renter must not conflict with residential amenity and must comply with all the other requirements of this Code and the Town of Pelham by-laws; and
- d) No roof parties.

7. ACCESS AND PARKING

This property includes parking in the common parking spots located around the building, on the "first come, first served" bases.

8. RECYCLING AND GARBAGE

Please familiarize yourself and your guests with the protocol for waste management procedures, including the day of the week in which waste collection is scheduled. Place your garbage at the curb by 7 a.m. on your regular collection day. Do not place your garbage bag or can at the curb any earlier than 5 p.m. the day before collection. It should be noted that the "putting out" of waste on a non-scheduled day is prohibited. Waste Collection information is available on the Niagara Region website www.niagararegion.ca/waste/collection.aspx

Schedule “B” – Responsible Person Consent Form

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SCHEDULE B

Responsible Person Consent Form Short Term Accommodation (STA) Application **By-law No. XXX-2020**

As required by the *Licensing for Short Term Accommodation By-law No. XXX-2020*, Section 5. (6), the owner of a Short Term Accommodation premises shall ensure that there is a responsible person available to attend the Short Term Accommodation premises at all times within a period of no greater than **one (1) hour** from the time of contact by way of telephone or e-mail.

The by-law defines a “Responsible Person” as *the owner or an agent assigned by the owner or licensee of the Short Term Accommodation to ensure the Short Term Accommodation is operated in accordance with the provisions of this by-law, the license and applicable law.*

Responsible Person Consent

I _____ CERTIFY AND ACKNOWLEDGE THAT:
(Print Name)

I have been appointed by the owner as a “Responsible Person” in accordance with the licensing requirements to operate a Short Term Accommodation at the following address:

_____, Town of Pelham, Ontario
(Street Address)

(Date)

(Signature)

NOTICE OF COLLECTION: The personal information recorded on this form is collected and maintained in accordance with MFIPPA – the Municipal Freedom of Information and Privacy Protection Act and will be used in the administration and enforcement of the Licensing for Short Term Accommodation by-law. Questions about the collection of personal information may be addressed to the Clerks Department, Town of Pelham, 20 Pelham Town Square P.O Box 400, Fonthill, ON L0S 1E0, 905-892-5055